

SCANNED

DATE:

1/24/05

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

BY:

PETEDGE, INC.,

2005 JAN 21 P 1:27

Plaintiff,

v.

THE KYJEN COMPANY, INC.,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS

THE KYJEN COMPANY, INC.,

Counterclaim Plaintiff,

Civil Action No. 04-10807 MEL

v.

PETEDGE, INC.,

Counterclaim Defendant.

STIPULATION AND [PROPOSED] ORDER

CONTINUING DISCOVERY AND MOTION CUT-OFF DATES

Kyjen Company, Inc. and Petedge, Inc. (collectively "the Parties") hereby stipulate, and pursuant to Local Rule 40.3, respectfully request an Order of the Court continuing the pre-trial dates in this action as follows:

- a. The non-expert Discovery Cut-off Date is continued from February 28, 2005 until April 28, 2005.
- b. The last day for serving expert witness reports is continued from March 31, 2005 until June 15, 2005; the time for serving rebuttal expert witness reports is continued to July 15, 2005. Expert depositions are to be concluded by July 29, 2005.
- c. The last day to file motions, including summary judgment motions, but excluding motions regarding the conduct of trial, is continued from May 30, 2005 until August 15, 2005.
- d. Under the current Scheduling Order, no specific Pre-Trial Conference date has been

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set. Instead, the Scheduling Order recites that the Court will set a Pre-Trial Conference no later than 30 days after ruling on dispositive motions. The parties do not request a change to this provision of the Scheduling Order.

Good cause exists for continuing the discovery and motion dates as the Parties are actively negotiating a settlement of all claims in this action. At this time, the Parties believe they are close to reaching a settlement, and expect to finalize their settlement of this action, or to conclude that settlement will not occur, within sixty (60) days. To promote settlement, the Parties have not spent their resources or burdened each other with discovery requests. The Parties have not sought any other such continuances from the Court.

Respectfully submitted,

Dated: 1/19/05

THE KYJEN COMPANY, INC.

By its attorneys,

Paul A. Stewart

Signed by Kirk Teska
as requested by Paul
Stewart

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Dated: 1/19/05

PETEDGE, INC.

By its attorneys,

Kirk Teska

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IT IS SO ORDERED

Dated: 1/31/05

Morris E. Lasker

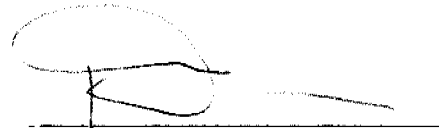
THE HONORABLE MORRIS E. LASKER
U.S. District Court for the District of Massachusetts

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following by first class mail on January 19, 2005:

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